



1997 SENATE BILL 324

October 15, 1997 - Introduced by Senators MOEN, BURKE, FITZGERALD, BRESKE and GROBSCHMIDT, cosponsored by Representatives UNDERHEIM, BOCK, KAUFERT, JENSEN, KUNICKI, LA FAVE, JOHNSRUD, LORGE and OLSEN. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

1 **AN ACT to renumber** 459.26 (2); **to renumber and amend** 459.20 (2); **to amend**
2 459.02, 459.03 (1), 459.09, 459.22 (2) (b), 459.24 (2) (e), 459.24 (3) (e), 459.24 (5),
3 459.24 (6) (a), 459.24 (6) (b), 459.24 (6) (c), 459.32 (3) and 459.34 (2m) (c); and
4 **to create** 459.095, 459.20 (2) (b), 459.20 (3g), 459.20 (3p), 459.20 (3t), 459.24
5 (3) (em), 459.24 (3m), 459.24 (5m), 459.26 (2) (b) and (c) and 459.34 (2) (ce), (cm)
6 and (cs) of the statutes; **relating to:** allowing audiologists to engage in the
7 practice of fitting and selling hearing aids without obtaining a hearing
8 instrument specialist license, continuing education for hearing instrument
9 specialists, audiologists and speech-language pathologists and granting
10 rule-making authority.

Analysis by the Legislative Reference Bureau

Current law provides that no person, including an individual granted a license or permit to practice audiology by the hearing and speech examining board (examining board) in the department of regulation and licensing, may engage in the practice of selling or fitting hearing aids without first obtaining a hearing instrument specialist license from the examining board. "Hearing aid" is defined, in

part, as a wearable instrument or device designed to aid impaired hearing. An applicant for a hearing instrument specialist license must pass an examination that includes certain practical tests of proficiency in fitting hearing aids. Current law also requires a hearing instrument specialist to provide a receipt to a purchaser of a hearing aid that includes certain information about the hearing aid, such as whether the hearing aid is used or reconditioned. In addition, a hearing instrument specialist who sells a hearing aid must give the purchaser a personal guarantee with terms that are at least identical to the manufacturer's guarantee.

This bill allows a person granted an audiologist license by the examining board to sell or fit hearing aids without having to first obtain a hearing instrument specialist license. A hearing aid that an audiologist is allowed to sell or fit under the bill has the same definition as a hearing aid under current law, except that it also includes implantable instruments and devices. The bill also changes the requirements that an applicant for an audiologist license must satisfy by requiring him or her to pass, in addition to an audiology examination required under current law, the proficiency tests required under current law for a hearing instrument specialist license. In addition, the bill requires an audiologist who fits or sells hearing aids to comply with the same requirements that apply to hearing instrument specialists with respect to a hearing aid receipt and a seller's guarantee.

This bill also requires the examining board to promulgate rules that require a person to complete continuing education in order to renew a hearing instrument specialist, audiologist or speech-language pathologist license. The rules must require such a person to complete 20 hours of continuing education every 2 years. In addition, the rules must require each person licensed as a hearing instrument specialist, audiologist or speech-language pathologist to complete a specified educational program or course of study to ensure competence with respect to a matter if the examining board has received a significant number of consumer complaints about the matter or if the examining board otherwise determines that such a requirement is necessary. Such rules must require the examining board to waive this requirement if, prior to the program or course of study, a person passes an examination administered by the examining board on the matter.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 459.02 of the statutes is amended to read:

2 **459.02 License required to sell and fit hearing aids.** (1) No person may
3 engage in the practice of selling or fitting hearing aids or display a sign or in any other
4 way advertise or represent himself or herself as a person who practices the fitting or

1 sale of hearing aids unless he or she holds a valid license issued under this
2 subchapter or a valid license or permit to practice audiology issued under subch. II.
3 The license required by s. 459.05 shall be conspicuously posted in his or her office or
4 place of business as registered with the department at all times. Duplicate licenses
5 shall be issued by the department under this subchapter to valid license holders
6 operating more than one office without additional payment.

7 (2) Nothing in this subchapter or subch. II shall prohibit any corporation or
8 mercantile establishment which maintains an established business address from
9 engaging in the business of selling or offering for sale hearing aids at retail without
10 a license, provided that for the purpose of selling and fitting hearing aids it employs
11 persons licensed under this subchapter or persons issued licenses or permits to
12 practice audiology under subch. II. Such corporation or mercantile establishment
13 shall annually file with the examining board a list of all persons employed for the
14 purpose of selling and fitting hearing aids.

15 **SECTION 2.** 459.03 (1) of the statutes is amended to read:

16 459.03 (1) Whoever practices fitting or ~~sale~~ selling of hearing aids under this
17 subchapter shall deliver to each person supplied with a hearing aid a receipt. The
18 receipt shall contain the licensee's signature and show the licensee's business
19 address and certificate number, together with specifications as to the make and
20 model of the hearing aid furnished and full terms of sale clearly stated. If a hearing
21 aid which is not new is sold, the receipt and the container thereof must be clearly
22 marked as "used" or "reconditioned" whichever is applicable.

23 **SECTION 3.** 459.09 of the statutes is amended to read:

24 **459.09** (title) **Renewal of license; fees; effect of failure to renew.** Each
25 person ~~who practices dealing in or fitting hearing aids~~ issued a license under this

1 subchapter shall, on or before the applicable renewal date specified under s. 440.08
2 (2) (a), pay to the department the applicable renewal fee specified under s. 440.08 (2)
3 (a) and submit with the renewal application proof that he or she completed, within
4 the 2 years immediately preceding the date of his or her application, 20 hours of
5 continuing education programs or courses of study approved or required under rules
6 promulgated under s. 459.095. A licensee shall keep the certificate conspicuously
7 posted in the person's his or her office or place of business at all times. Where more
8 than one office is operated by the licensee, duplicate certificates shall be issued by
9 the department for posting in each location.

10 **SECTION 4.** 459.095 of the statutes is created to read:

11 **459.095 Continuing education.** The examining board shall do all of the
12 following:

13 (1) Promulgate rules establishing the criteria for approval of continuing
14 education programs or courses of study required for renewal of a license under s.
15 459.09 and for approval of the sponsors and cosponsors of continuing education
16 programs or courses of study.

17 (2) Approve continuing education programs and courses of study in accordance
18 with the criteria established under sub. (1).

19 (3) In consultation with the department, promulgate rules that require each
20 person issued a license under this subchapter to complete a specified continuing
21 education program or course of study to ensure competence with respect to a matter
22 related to the practice of fitting and dealing in hearing aids if the examining board
23 has received a significant number of consumer complaints about the matter or if the
24 examining board otherwise determines that there is a need for such a requirement.
25 Rules promulgated under this subsection shall establish criteria for the examining

1 board's approval of the continuing education program or course of study and of
2 sponsors and cosponsors of the continuing education program or course of study. The
3 rules shall also require the examining board to administer, prior to the continuing
4 education program or course of study, an examination on the matter that is the
5 subject of the continuing education program or course of study and to waive a
6 requirement to complete the continuing education program or course of study if a
7 person granted a license under this subchapter passes the examination. A person
8 who takes an examination specified in this subsection shall pay the fee specified in
9 s. 440.05 (1) (b).

10 **SECTION 5.** 459.20 (2) of the statutes is renumbered 459.20 (2) (intro.) and
11 amended to read:

12 459.20 (2) (intro) "Audiology" means applying all of the following:

13 (a) Applying principles, methods or procedures of prevention, identification,
14 evaluation, consultation, intervention, instruction or research related to hearing,
15 vestibular function, or any abnormal condition related to tinnitus, auditory
16 sensitivity, acuity, function or processing, speech, language or other aberrant
17 behavior resulting from hearing loss.

18 **SECTION 6.** 459.20 (2) (b) of the statutes is created to read:

19 459.20 (2) (b) Engaging in the practice of fitting and dealing in hearing aids.

20 **SECTION 7.** 459.20 (3g) of the statutes is created to read:

21 459.20 (3g) "Hearing aid" means any wearable or implantable instrument or
22 device designed for or offered for the purpose of aiding or compensating for impaired
23 human hearing and any parts, attachments or accessories of such an instrument or
24 device, except batteries and cords.

25 **SECTION 8.** 459.20 (3p) of the statutes is created to read:

1 459.20 **(3p)** “Practice of fitting and dealing in hearing aids” means the
2 measurement of human hearing by means of an audiometer or by any other means
3 accepted by the examining board for the purpose of making selections, adaptations
4 or sales of hearing aids intended to compensate for impaired hearing, and includes
5 making impressions for ear molds.

6 **SECTION 9.** 459.20 (3t) of the statutes is created to read:

7 459.20 **(3t)** “Sell” or “sale” means a transfer for a consideration of title or of the
8 right to use.

9 **SECTION 10.** 459.22 (2) (b) of the statutes is amended to read:

10 459.22 **(2)** (b) Authorize ~~an individual~~ a speech-language pathologist licensed
11 under this subchapter to dispense or sell hearing aids without obtaining a hearing
12 instrument specialist license under subch. I.

13 **SECTION 11.** 459.24 (2) (e) of the statutes is amended to read:

14 459.24 **(2)** (e) Submits evidence satisfactory to the examining board that he or
15 she has passed the examination required for certification as a speech-language
16 pathologist by the American speech-language-hearing association or passes an
17 examination under s. 459.26 (2) (a) to determine fitness as a speech-language
18 pathologist or has completed education or training that the examining board
19 determines is substantially equivalent to passing one of those examinations in
20 determining fitness as a speech-language pathologist.

21 **SECTION 12.** 459.24 (3) (e) of the statutes is amended to read:

22 459.24 **(3)** (e) Submits evidence satisfactory to the examining board that he or
23 she has passed the examination required for certification as an audiologist by the
24 American speech-language-hearing association or passes an examination under s.
25 459.26 (2) (a) to determine fitness as an audiologist, or has completed education or

1 training that the examining board determines is substantially equivalent to passing
2 one of those examinations in determining fitness as an audiologist.

3 **SECTION 13.** 459.24 (3) (em) of the statutes is created to read:

4 459.24 (3) (em) Passes an examination under s. 459.26 (2) (b).

5 **SECTION 14.** 459.24 (3m) of the statutes is created to read:

6 459.24 (3m) FITTING AND SALE OF HEARING AIDS. An audiologist licensed under
7 this subchapter or an individual granted a permit to practice audiology under this
8 subchapter who engages in the practice of fitting and dealing in hearing aids shall
9 do all of the following:

10 (a) Deliver to each person supplied with a hearing aid a receipt. The receipt
11 shall contain the signature and show the business address and certificate number
12 of the licensee or permittee, together with specifications as to the make and model
13 of the hearing aid and full terms of sale clearly stated. If a hearing aid that is not
14 new is sold, the receipt and the container must be clearly marked as “used” or
15 “reconditioned”, whichever is applicable. The terms of the guarantee, if there is any
16 given, shall be set out in not less than 8-point type.

17 (b) Give to a purchaser of a hearing aid a personal guarantee that is at least
18 identical in its terms to the guarantee given by the manufacturer of the hearing aid.

19 **SECTION 15.** 459.24 (5) of the statutes is amended to read:

20 459.24 (5) EXPIRATION AND RENEWAL. The renewal dates for licenses granted
21 under this subchapter, other than temporary licenses granted under sub. (6), are
22 specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the
23 department on a form provided by the department and shall include the renewal fee
24 specified in s. 440.08 (2) (a) and proof that the applicant completed, within the 2 years
25 immediately preceding the date of his or her application, 20 hours of continuing

1 education programs or courses of study approved or required under rules
2 promulgated under sub. (5m).

3 **SECTION 16.** 459.24 (5m) of the statutes is created to read:

4 459.24 **(5m)** CONTINUING EDUCATION. (a) The examining board shall do all of
5 the following:

6 1. Promulgate rules establishing the criteria for approval of continuing
7 education programs or courses of study required for renewal of a license under sub.
8 (5) and the criteria for approval of the sponsors and cosponsors of continuing
9 education programs or courses of study.

10 2. Approve continuing education programs and courses of study in accordance
11 with the criteria established under subd. 1.

12 3. In consultation with the department, promulgate rules that do each of the
13 following:

14 a. Require each person granted a speech-language pathologist license to
15 complete a specified continuing education program or course of study to ensure
16 competence with respect to a matter related to the practice of speech-language
17 pathology if the examining board has received a significant number of consumer
18 complaints about the matter or if the examining board otherwise determines there
19 is a need for such a requirement.

20 b. Require each person granted an audiologist license to complete a specified
21 continuing education program or course of study to ensure competence with respect
22 to a matter related to the practice of audiology if the examining board has received
23 a significant number of consumer complaints about the matter or if the examining
24 board determines there is a need for such a requirement.

1 (b) Rules promulgated under par. (a) 3. shall establish criteria for the
2 examining board's approval of the specified continuing education program or course
3 of study and of sponsors and cosponsors of the continuing education program or
4 course of study. The rules shall also require the examining board to administer, prior
5 to the continuing education program or course of study, an examination on the matter
6 that is the subject of the continuing education program or course of study and to
7 waive a requirement to complete the continuing education program or course of
8 study if a person granted a license under this subchapter passes the examination.
9 A person who takes an examination specified in this paragraph shall pay the fee
10 specified in s. 440.05 (1) (b).

11 **SECTION 17.** 459.24 (6) (a) of the statutes is amended to read:

12 459.24 (6) (a) Upon application, the examining board may grant a temporary
13 license to practice speech-language pathology during the completion of the
14 postgraduate fellowship required under sub. (2) (f) if the applicant practices under
15 the supervision of a speech-language pathologist licensed under sub. (2), satisfies
16 the requirements under sub. (2) (a) to (d) and has submitted an application to take
17 the next available examination for licensure as a speech-language pathologist under
18 s. 459.26 (2) (a).

19 **SECTION 18.** 459.24 (6) (b) of the statutes is amended to read:

20 459.24 (6) (b) Upon application, the examining board may grant a temporary
21 license to practice audiology during the completion of the postgraduate fellowship
22 required under sub. (3) (f) if the applicant practices under the supervision of an
23 audiologist licensed under sub. (3), satisfies the requirements under sub. (3) (a) to
24 (d) and has submitted an application to take the next available examination
25 examinations for licensure as an audiologist under s. 459.26 (2) (a) and (b).

1 **SECTION 19.** 459.24 (6) (c) of the statutes is amended to read:

2 459.24 **(6)** (c) A temporary license granted under this subsection is valid for a
3 period designated by the examining board, not to exceed 9 months, ~~and. A temporary~~
4 license granted under par. (a) may be renewed once by the examining board. A
5 temporary license granted under par. (b) may be renewed once by the examining
6 board if the applicant fails an examination for audiologist licensure under s. 459.26
7 (2) (a) or (b) and applies to take the next available examination or if the applicant
8 shows, to the satisfaction of the examining board, sufficient cause for the renewal.

9 An applicant for a temporary license shall pay the fee specified in s. 440.05 (6).

10 **SECTION 20.** 459.26 (2) of the statutes is renumbered 459.26 (2) (a).

11 **SECTION 21.** 459.26 (2) (b) and (c) of the statutes are created to read:

12 459.26 **(2)** (b) An applicant for an audiologist license shall also complete an
13 examination administered by the examining board that consists of practical tests of
14 proficiency in techniques that pertain to the fitting of hearing aids, including the
15 following:

16 1. Pure tone audiometry, including air conduction testing and bone conduction
17 testing.

18 2. Live voice or recorded voice speech audiometry including speech reception
19 threshold testing and most comfortable loudness measurements and measurements
20 of tolerance thresholds.

21 3. Masking when indicated.

22 4. Recording and evaluation of audiograms and speech audiometry to
23 determine proper selection and adaption of a hearing aid.

24 5. Taking ear mold impressions.

1 (c) The examining board may waive the requirement to complete the
2 examination specified in par. (b) if it determines that an applicant for an audiologist
3 license has completed education or training that is substantially equivalent to
4 completing the examination.

5 **SECTION 22.** 459.32 (3) of the statutes is amended to read:

6 459.32 (3) An applicant for a limited permit under sub. (1) or (2) shall pay the
7 fee specified in s. 440.05 (6) and, if applicable, an applicant for a limited permit under
8 sub. (2) shall also pay the fee specified in s. 440.05 (1) (b).

9 **SECTION 23.** 459.34 (2) (ce), (cm) and (cs) of the statutes are created to read:

10 459.34 (2) (ce) Violated any federal or state statute, rule or regulation that
11 relates to the practice of fitting and dealing in hearing aids. This paragraph does not
12 apply to speech-language pathologists.

13 (cm) Failed to conduct a direct observation of the ear canal of a purchaser of a
14 hearing aid. This paragraph does not apply to speech-language pathologists.

15 (cs) Sold a hearing aid to a person who was not given tests using appropriate
16 procedures and instrumentation or without proper measurement of the functional
17 intensity and range of the person's hearing. This paragraph does not apply to
18 speech-language pathologists.

19 **SECTION 24.** 459.34 (2m) (c) of the statutes is amended to read:

20 459.34 (2m) (c) The examining board may, as a condition of reinstating a license
21 that has been suspended under this subchapter, require the license holder to pass the
22 an examination required for initial licensure under s. 459.26 (2).

23 **SECTION 25. Nonstatutory provisions.**

24 (1) PROFICIENCY TESTS FOR FITTING AND DEALING IN HEARING AIDS.

1 (a) The department of regulation and licensing shall deny an application to
2 renew an audiologist license that expires on February 1, 1999, and that is submitted
3 by an applicant who does not hold a valid license issued under section 459.05 of the
4 statutes unless he or she submits proof that he or she completed the examination,
5 administered by the hearing and speech examining board, specified in section 459.26
6 (2) (b) of the statutes, as created by this act, or that he or she has completed education
7 or training that, to the satisfaction of the hearing and speech examining board, is
8 substantially equivalent to this requirement. An applicant may not take the
9 examination unless he or she pays the fee specified in section 440.05 (1) (b) of the
10 statutes. Notwithstanding sections 440.08 (2) (c) and 459.24 (5) of the statutes, the
11 fee shall be in addition to any renewal fee required under section 440.08 (2) (a) 15.
12 of the statutes.

13 (b) The hearing and speech examining board shall administer the examination
14 specified in paragraph (a) in a manner that ensures, to the maximum extent
15 practicable, that each person granted an audiologist license that expires on February
16 1, 1999, has an opportunity to take the examination and is notified of the results
17 before February 1, 1999.

18 (2) CONTINUING EDUCATION. Notwithstanding sections 459.09 and 459.24 (5) of
19 the statutes, as affected by this act, the requirement to submit proof of completion
20 of continuing education programs or courses of study does not apply to an applicant
21 for renewal of a license issued or granted under subchapter I or II of chapter 459 of
22 the statutes that expires on February 1, 1999.

23 **SECTION 26. Initial applicability.**

24 (1) This act first applies to applications for initial licenses or permits issued or
25 granted under subchapter I or II of chapter 459 of the statutes, as affected by this act,

1 that are received by the department of regulation and licensing or the hearing and
2 speech examining board on the effective date of this subsection.

3 **SECTION 27. Effective dates.** This act takes effect on the first day of the 6th
4 month beginning after publication, except as follows:

5 (1) SECTION 25 (1) of this act takes effect on the day after publication.

6 (END)